

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
BAKEMARK USA LLC,

Plaintiff,

-against-

BRIAN NEGRON, JOSE NEGRON JR,
BAKERS DEPOT LLC, and
NF TRANSPORTATION LLC,

Defendants.

ANALISA TORRES, District Judge:

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23 Civ. 2360 (AT)

ORDER

Plaintiff, BakeMark USA LLC (“BakeMark”), moves by order to show cause for a preliminary injunction pursuant to Federal Rule of Civil Procedure 65. ECF No. 8; *see also* ECF No. 9. Following expedited discovery, *e.g.*, ECF Nos. 25, 34, 50, 54, 62, the parties fully briefed Plaintiff’s motion, ECF Nos. 65, 73, 77, 81. After careful review of the parties’ papers, which include affidavits, deposition transcripts, and other documentary evidence, the Court determines that there are contested issues of fact. These include, but are not limited to: (1) the relationship between Defendant Bakers Depot LLC (“Bakers Depot”) and JB Freight LLC, and whether the latter is only a freight services company, *compare* ECF No. 65 at 4–6 (citations omitted), *with* ECF No. 81 at 9–12 (citations omitted); (2) whether certain former BakeMark employees work for Defendant Bakers Depot, ECF No. 81 at 14–15 (citations omitted); and (3) the impact of a preliminary injunction on Defendants’ business, *compare* ECF No. 71 ¶ 34, *with* ECF No. 9 at 28, *and* ECF No. 81 at 19. *See also* ECF No. 79 ¶ 7 (noting alleged inaccuracies in Defendants’ deposition testimony).

The Court concludes that, “[b]ecause the briefs and affidavits present disputed issues of fact,” an evidentiary hearing is necessary to resolve Plaintiff’s motion. *Forts v. Ward*, 566 F.2d 849, 851 (2d Cir. 1977); *see also id.* (“It is well established that motions for preliminary injunctions should not be resolved on the basis of affidavits which evince disputed issues of fact. Normally, an evidentiary hearing is required to decide credibility issues.”). Accordingly, by separate order, the Court shall refer the evidentiary hearing and Plaintiff’s motion to the Honorable Barbara C. Moses.

The show cause hearing scheduled for June 27, 2023, is ADJOURNED *sine die*.

SO ORDERED.

Dated: June 26, 2023
New York, New York



ANALISA TORRES
United States District Judge